IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

WEDNESDAY, THE TWENTY SEVENTH DAY OF APRIL
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MS JUSTICE G.ROHINI

WRIT PETITION NO : 9894 of 2005

Between:

1 Ganu Gali Reddy, S/o. Ram Reddy,
H.No.8-5-148, Laxminagar, Karimnagar, A.P.
2 Smt. Hafsa Tanveer Hina, W/o. Abdul Quddus Hamid,
H.No.4-5-19, Fatehpura, Karimnagar, A.P.

..... PETITIONERS

AND

1 The Commissioner, Town Municipality,
Karimnagar.
2 The District Collector, Karimnagar District,
Karimnagar.
3 Sri Ravoola Veera Brahma Chary, S/o. Veeraiah,
H.No.7-1-773, Mankamma Thota, Karimnagar.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue a writ, order or direction more particularly one in the nature of the writ of Mandamus declaring the action of the1st respondent dt.25-04-2005 threatening to lay open drainage in the lands of the petitioners in Sy.No.1151, Mankamma Thota, Mandal and District Karmnagar, as illegal, void and violative of the principles of natural justice and also gross violation of Judgment dt.19-02-2003 made in W.P.No.3052 of 2003 following the Division Bench Judgment, and to restrain the Respondents from laying the open drainage in the lands of the petitioners, without followoing the due process of law, and pass such other order or orders.

Counsel for the Petitioners: MR.MOHD.ZIA-UL-HAQ

Counsel for the Respondent No.1: MR.POLISETTI RADHAKRISHNA (SC FOR MPL)

Counsel for Respondent No.2: G.P. for Revenue

The Court at the stage of admission made the following:

ORDER:

Heard the learned counsel for the petitioners and the learned standing counsel appearing for the respondents 1 and 2.

The petitioners seek a Writ of Mandamus declaring the action of the first respondent dated 25-04-2005 threatening to lay open drainage in the lands of the petitioners in Sy.No.1152, Mankamma thota, Mandal and District Karimnagar as arbitrary and illegal.

It is represented by the learned counsel appearing for both parties that the issue involved in this writ petition is squarely covered by a decision of this Court in W.P. No. 3052 of 2003 dated 19-02-2003, wherein the Division Bench while considering an identical question, issued guidelines as under:

1. Where a property is required for public purpose viz., widening of roads or for any other purpose, the authorities straightaway cannot take law into their hands and jump into the premises, dispossess or evict the occupants or demolish the property.

2. If the authorities concerned want to take action for eviction/dispossession of the occupants or demolition, they shall issue 60 days' prior notice notifying as to the nature of the property, the property to whom it belongs and the proposed action calling for explanation/objections if any from the occupants. On receipt of such objections, if there is any objection as to the ownership of the property, the authorities should determine the extent of encroachment of unauthorized occupation and also determine whether the property in question belongs to Government/any other local self Government or authority or the occupants and pass appropriate orders within three months from the date of receipt of the objections, after affording an opportunity of being heard to the occupants.

3. In case where demolition of private property has already been made, the authorities shall determine the damages on the basis of the assessment to be made by the Engineer of the Roads and Buildings Department and disburse the amount of damages quantified forthwith.

4. If the demolition is in respect of local bodies' Government property, the question of damages does not arise. In such an event, the occupant shall be entitled to remove the material used for the construction.

5. In case of demolition of private property, the authorities concerned shall determine the loss caused to the occupants on the basis of the assessment to be made by the Engineer of R & B Department and on such assessment of damages, the concerned authorities shall take appropriate steps to disburse the amount quantified forthwith.

6. If there is any claim for grant/assessment of the property, the concerned authorities shall consider the same in accordance with law taking into consideration the eligibility and the entitlement of occupants, after making enquiry and till such claim is decided, there shall be status-quo obtaining as on today regarding the structures.

The learned standing counsel appearing for the respondents does not dispute the above legal position.

Accordingly, the writ petition is disposed of directing the respondents not to lay open drainage in the lands in question without following the guidelines issued by the Division Bench in the above writ petition.

However, since no relief is sought against the third respondent, the writ petition shall stand dismissed against the third respondent.

The Writ Petition is accordingly disposed of. No order as to costs.

G. ROHINI, J

Date: 21-02-2005.

Note: Issue operative portion by wire at party's costs.

B/o.

LSK